REMARKS

Upon entry of the instant Amendment, Claims 1-18 are pending. Claim 1 has been amended to more particularly point out Applicant's invention.

Applicant initially notes that the Official Action states that "[I]n regard to the Official Notice statements taken in the previous Office Action, it is noted that the applicant does not traverse the examiner's assertion of official notice, thus the common knowledge or well-known in the art statement, to allow selection of a compression method and to use a timer as a deactivate signal, is taken to be admitted prior art."

Applicant respectfully submits that, inasmuch as it was not necessary to take a position on "compression method" or "timer deactivation," to traverse the *rejection* (which was solely in light of Budge, see para. 4 of the previous Official Action), Applicant respectfully disagrees with the assertion that these have been admitted to be prior art. That is, whether or not "compression method" or "timer deactivation" are indeed susceptible of "Official Notice" as "prior art" became moot. Indeed, the Examiner acknowledges that point precisely because the rejection on that basis was withdrawn.

Claims 1-18 were rejected under 35 U.S.C. 103 as being unpatentable over Budge et al., U.S. Patent No. 6,014,689 ("Budge") in view of Dawson, U.S. Patent No. 6,252588 ("Dawson"). Applicant notes that, while paragraph 3 does not explicitly indicate that "Official Notice" of "compression method" and "timer deactivation" form a basis for the Section 103 rejection, the discussion of the rejection could provide a basis for such an interpretation. In any event, Applicant respectfully submits that the claimed invention is not taught, suggested, or implied by Budge, Dawson, or "Official Notice," either singly or in combination.

As discussed in the specification, an aspect of the present invention is to provide an improved video e-mail system. Certain embodiments include a video input device with a video e-mail controller, and a Web Access Device processor implementing video capture, e-mail and compression selection programs. In operation, a user activates the video e-mail controller, for example, by pushing or clicking a button. The video input device sends a video stream to the Web Access Device processor which is stored until

the user clicks or pushes the button again. The Web Access Device processor then activates the e-mail program, opens a "compose" window, and automatically attaches the stored video file as an attachment to the e-mail.

Thus, claim 1 has been amended to recite "automatically accessing said at least a portion from memory and attaching said at least a portion of said video as an attachment to an e-mail message without user interaction;" claims 4, 10, and 16 recite "automatically attach[ing], without user interaction, said video images to an e-mail compose window responsive to a video e-mail command signal for transmission as an attached e-mail file."

In contrast, as discussed in response to the previous Official Action, Budge appears to require the user to access (LOAD) a video file and then manually activate the MAIL button 670. Presumably, then, the user must manually attach the file. However, Budge does not appear, inter alia, to automatically attach, without user interaction, the video file to an e-mail compose window for transmission. Thus, Budge appears representative of problems solved by implementations of the present invention, which allow for automatic loading or attachment of video files.

Indeed, that Budge fails to teach such automatic attaching is acknowledged in the Official Action, which relies on Dawson to allegedly teach automatic attaching. However, while Dawson discusses the complexities of attaching an image file or an audio file to an e-mail, Dawson's remedy is to eliminate attachments altogether. Thus, for example, at column 9, lines 53-55, Dawson explicitly states that "[w]hen an audio visual e-mail message is received there are no separate attachments that require the use of separate application programs to access the attachments." Thus, if anything, Dawson teaches away from automatically attaching as recited in the claims at issue.

As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1, 4, 10, and 16. It is axiomatic that, where independent claims are not invalid due to obviousness over particular references, claims depending therefrom are likewise not invalid over the same references, even when combined with alleged prior art that does not supply the missing teachings. Thus, since the alleged "Official Notice" prior art (even if validly construable as prior art) fails to supply such teachings

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Applicant respectfully submits that the claims depending from claims 1, 4, 10, and 16 are likewise not invalid. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

For all of the above reasons, Applicants respectfully submit that the application is in condition for allowance, which allowance is earnestly solicited.

Respectfully requested,

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